

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

WILD FISH CONSERVANCY,

Plaintiff,

v.

DAVE IRVING, in his official capacity as the Manager of the Leavenworth Fisheries Complex; UNITED STATES FISH AND WILDLIFE SERVICE; DANIEL M. ASHE, in his official capacity as the Director of the United States Fish and Wildlife Service; UNITED STATES BUREAU OF RECLAMATION; LOWELL PIMLEY, in his official capacity as the Acting Commissioner of the United States Bureau of Reclamation; BONNEVILLE POWER ADMINISTRATION; and, ELLIOT MAINZER, in his official capacity as the Administrator and Chief Executive Officer of the Bonneville Power Administration,

Defendants.

No. 2:14-CV-0306-SMJ

**ORDER DENYING  
DEFENDANTS' MOTION TO  
DISMISS CLAIMS AGAINST  
BONNEVILLE POWER  
ADMINISTRATION AND ELLIOT  
MAINZER FOR LACK OF  
SUBJECT MATTER  
JURISDICTION AS MOOT**

Before the Court, without oral argument, is Defendants' Partial Motion to Dismiss Plaintiff's Complaint, ECF No. 9. This Motion, filed November 17, 2014,

1 seeks the dismissal of Defendants Bonneville Power Administration (“BPA”) and  
2 Elliot Mainzer as parties to the action pursuant to Federal Rule 12(b)(1). *Id.* at 2.  
3 Defendants argue that the Court lacks subject matter jurisdiction because “the  
4 Northwest Power Act, 16 U.S.C. § 839f(e)(5), vests exclusive jurisdiction over  
5 challenges to all “final actions” of Bonneville [such as the one tying the BPA to  
6 this case] in the U.S. Circuit Courts of Appeals.” *Id.* at 2.

7 On December 8, 2014, Plaintiff filed its First Amended Complaint, ECF  
8 No. 10. This Complaint did not list the BPA or Elliot Mainzer, the administrator  
9 and CEO of the BPA, as parties. That same day, Plaintiff also filed a response to  
10 Defendants’ motion arguing that it should be denied as moot because the First  
11 Amended Complaint supersedes the original.

12 Having reviewed the pleadings and the file in this matter, the Court is fully  
13 informed and denies Defendants’ motion as moot. Plaintiff has voluntarily  
14 dismissed any claims against BPA and Elliot Mainzer.

15 Accordingly, **IT IS HEREBY ORDERED:**

16 **1.** Defendants' Partial Motion to Dismiss Plaintiff's Complaint, **ECF**  
17 **No. 9**, is **DENIED** as moot.

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2. -The Clerk's Office is directed to **CHANGE** the case caption in this matter to:

WILD FISH CONSERVANCY,

Plaintiff,

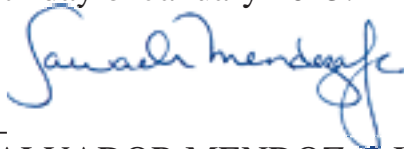
v.

DAVE IRVING, in his official capacity as the Manager of the Leavenworth Fisheries Complex; UNITED STATES FISH AND WILDLIFE SERVICE; DANIEL M. ASHE, in his official capacity as the Director of the United States Fish and Wildlife Service; UNITED STATES BUREAU OF RECLAMATION; LOWELL PIMLEY, in his official capacity as the Acting Commissioner of the United States Bureau of Reclamation,

Defendants.

**IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and provide copies to all counsel.

**DATED** this 8th day of January 2015.



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SALVADOR MENDOZA, JR.  
United States District Judge